

## Message Text

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ACTION AF-10

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TO USDOC WASHDC  
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E.O. 11652: N/A  
TAGS: BBSR, EINV, NI  
SUBJECT: REPATRIATION LIMITATIONS

REF: USDOC 17488

1. IN RESPONSE TO REFTEL, FOLLOWING ATTEMPTS TO SPELL OUT  
NIGERIAN GROUND RULES ON INVESTMENT AND CONTRACT RELATED  
FOREIGN EXCHANGE REPATRIATION:

A) DIVIDENDS (I.E., PROFIT REPATRIATION) - FMG RESTRICTS  
ANNUAL DIVIDEND DECLARATION TO 30 PERCENT OF PAID-UP SHARE  
CAPITAL. HOWEVER, BEFORE REPATRIATION, 45 PERCENT CORPORATION  
TAX MUST BE PAID WHICH REDUCES EFFECTIVE ANNUAL RATE DIVIDEND  
REPATRIATION TO 16.5 PERCENT OF PAID-UP SHARE CAPITAL. NOTE  
THAT PRESENT RESTRICTIONS EXPIRE ON MARCH 31, 1978, BUT IT IS  
LIKELY THAT THESE WILL BE RENEWED OR SIMILAR REGULATIONS WILL  
BE INTRODUCED AT THAT TIME. SEE LAGOS 5305 FOR MECHANICS OF  
PROFIT/DIVIDEND REPATRIATION.

B) CAPITAL - ALL INITIAL FOREIGN CAPITAL INVESTMENT CAN  
BE REPATRIATED (I.E., DISINVESTMENT) ASSUMING THAT IT WAS  
GRANTED "APPROVED STATUS" BY MINFINANCE. NOTE: FOREIGN  
CAPITAL CANNOT BE INVESTED LEGALLY IN NIGERIA WITHOUT APPROVED  
STATUS. END NOTE. THOSE PROFITS WHICH CANNOT BE DISTRIBUTED AS  
DIVIDENDS, CAN BE CAPITALIZED ONCE PERMISSION IS RECEIVED FROM  
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MINFINANCE. ONE CAPITALIZED, SAME RULES APPLY AS WITH INITIAL  
CAPITAL INVESTMENT. IN PRINCIPLE, UNCAPITALIZED RETAINED  
PROFITS (E.G. IN FORM OF CASH RESERVES) ARE TREATED IN SAME WAY  
AS CAPITAL IN DISINVESTMENT ACTION. HOWEVER, ACCOUNTANTS HERE  
ADVISE THAT REPATRIATION OF UNCAPITALIZED PROFITS MAY BE MORE  
DIFFICULT THAN REPATRIATION OF CAPITAL BECAUSE OF BUREAUCRATIC  
PREJUDICE.

C) ROYALTIES - THERE ARE NO TIME OR PERCENTAGE LIMITATIONS ON ROYALTIES, BUT ALL ROYALTY AGREEMENTS MUST HAVE APPROVAL OF MINFINANCE. DURATION AND PERCENTAGE OF ROYALTY MUST BE NEGOTIATED WITH MINFINANCE. ROYALTIES ARE SUBJECT TO 45 PERCENT CORPORATION TAX. HOWEVER, ACCOUNTANTS STATE FMG IS RELUCTANT TO ALLOW REPATRIATION ROYALTY PAYMENTS. SO FAR UNABLE TO DETERMINE REASON WHY.

D) LOANS AND INTEREST - ALL LOANS INCLUDING PRINCIPAL AND INTEREST PAYMENTS MUST HAVE "APPROVED STATUS" FROM MINFINANCE. NO REPATRIATION PROBLEMS ALTHOUGH FMG PUSHES STRONGLY FOR LOCAL FINANCING.

E) MANAGING/TECHNICAL SERVICE FEES - ALL FEES BASED ON PERCENTAGE OF GROSS PROFIT. ON ARRANGEMENT REACHED PRIOR TO APRIL 1, 1977, MAXIMUM FEE WAS 5 PERCENT OF GROSS PROFIT. AFTERWARDS, MAXIMUM FEE FIXED AT 3 PERCENT . USUAL MAXIMUM TERM MANAGEMENT/TECHNICAL SERVICES CONTRACT IS 5 YEARS. CONTRACT MUST BE NEGOTIATED WITH AND APPROVED BY MINFINANCE.

F) CONTRACTS - ALL CONTRACTS MUST SPECIFY PERCENTAGE OF TOTAL FEE THAT WILL BE USED TO COVER FOREIGN EXPENDITURES. THIS HAS BEEN LIMITED TO MAXIMUM 50 PERCENT OF CONTRACT SINCE APRIL 1, 1977, BUT OBVIOUSLY FMG TRIES TO SECURE LOWER PERCENTAGE. MINFIANCE MUST APPROVE CONTRACT UNDER ADVICE  
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OF TECHNICAL MINISTRY CONCERNED, E.G.WORKS. NOTE: IT IS ILLEGAL FOR AFOREIGN-NIGERIAN JOINT VENTURE TO SUBCONTRACT JOBS TO FOREIGN PARTNER'S PARENT COMPANY.  
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## Message Attributes

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